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12 UNITED STATES DISTRICT COURT
13 CENTRAL DISTRICT OF CALIFORNIA

14 In re
15 EAGAN AVENATTI, LLP,
16 Debtor.

Case No. 8:18-CV-01644-VAP-KES

**JASON FRANK LAW, PLC'S
STATUS REPORT RE JUDGMENT
DEBTOR EXAM**

1 Pursuant to the Court's February 26, 2019 Minute Order (Dkt. No. 56), Jason
2 Frank Law, PLC ("JFL") submits the following status report related to the judgment
3 debtor examination of Michael Avenatti scheduled for March 8, 2019. JFL intends
4 to proceed with the judgment debtor examination. Doing so is appropriate and
5 necessary given the following:

6 *First*, as part of the stipulation appointing the Receiver, Avenatti stipulated to
7 the judgment debtor examination going forward on March 8, 2019. (Dkt. 49.) He
8 did so in his personal capacity and in his capacity as the managing partner of Eagan
9 Avenatti, LLP ("EA"). (*Id.*) Avenatti's agreement to sit for the judgment debtor
10 examination on March 8, 2019 was material to JFL's agreement to enter the
11 stipulation.

12 *Second*, while JFL hoped the parties would be able to work out their
13 differences short of the examination going forward, that unfortunately has not
14 happened. This is a judgment debtor examination long in the works. Avenatti has
15 repeatedly and successfully delayed the examination time and time again, but that
16 delay must end.

17 *Third*, as a judgment creditor, JFL has a right to broadly question Avenatti as
18 part of its effort to collect its Judgment. By agreeing to the appointment of a
19 Receiver, JFL did not agree to forego its collection efforts, and the judgment debtor
20 examination is an important part of the collection process. Through the examination,
21 JFL is seeking to discover numerous issues, including but not limited to (a)
22 determining where did all the money go; (b) what are EA's current assets; (c) have
23 Avenatti or Eagan wrongfully diverted EA assets to themselves or their related
24 entities; (d) did EA fraudulently transfer money to third parties; (e) should other
25 individuals or entities be added to the Judgment pursuant to California Code of Civil
26 Procedure § 187.4 because an inequitable result will follow if their acts are treated
27 as those of the entity alone. Greenspan v. LADT, LLC, 191 Cal.App.4th 486, 509
28 (2010); Carr v. Barnabey's Hotel Corp., 23 Cal.App.4th 14, 20-22 (1994) ("The

1 greatest liberality is to be encouraged in the allowance of such amendments in order
2 to see that justice is done.”)

3 *Fourth*, the appointment of the Receiver is not an adequate substitute for a
4 judgment debtor examination. The Receiver is not in the possession of the same
5 information as Avenatti, who has been the managing partner of EA for years. As
6 Judge Phillips found in her Order Denying EA and Avenatti’s Motion to Disqualify
7 Counsel, JFL’s counsel has extensively prepared for the examination, “reviewing
8 over 106,000 separate banking transactions involving complicated intra company
9 transfers between [Avenatti’s] various entities and bank accounts” and “requiring
10 new counsel to become sufficiently familiar with these transactions to conduct an
11 effective debtor’s examination would involve great time and expense.” (Dkt. 45, p.
12 3). The same holds true for the Receiver who has only been assigned to this case for
13 a few weeks. Moreover, there is no substitute for having Avenatti answer questions
14 under oath and having the Court available to rule on objections and require answers
15 if appropriate.

16 *Fifth*, Avenatti still has not complied with this Court’s order to produce
17 documents, including but not limited to: (a) EA’s retainer and fee sharing
18 agreements; (b) the bank records for all Avenatti entities and client trust accounts;
19 (c) EA’s financial records; (d) EA’s tax records; etc. (See Dkt. 38 for full summary
20 of missing documents). This is the subject of this Court’s Certification and Order to
21 Show Cause re Contempt, which has not yet been scheduled for hearing. (Dkt. 48.)
22 While JFL has been able to obtain some information through third-party bank
23 subpoenas -- including millions of dollars of EA fees that were hidden by Avenatti
24 in undisclosed bank accounts during the bankruptcy (Dkt. 51) -- JFL has not been
25 able to locate all bank accounts. Hopefully, in the judgment debtor exam, Avenatti
26 will finally be required to disclose all his bank accounts under penalty of perjury, so
27 JFL and/or the Receiver are able to trace and claw back EA’s assets.

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1 The appointment of the Receiver should help immeasurably in preserving
2 EA's assets and assisting in the collection of EA fees and potential fraudulent
3 transfers. However, discovering the facts necessary to assist in these efforts requires
4 a thorough judgment debtor exam of, what has been to date, a very difficult and
5 evasive witness. (Dkt. 45, p. 3, n. 1 (finding that Avenatti was "repeatedly evasive"
6 at his initial debtor examination).)

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8 Dated: March 6, 2019

FRANK SIMS & STOLPER LLP

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13 Jason Frank Law, PLC
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